

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2876

Introduced by Assembly Member ~~Furutani~~ Lieber

February 22, 2008

An act to add Article 17 (commencing with Section 69900) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 2876, as amended, ~~Furutani~~ Lieber. Postsecondary education: Student Loan Integrity Act.

(1) Existing law establishes the University of California, California State University, the California Community Colleges, and independent colleges and universities as the 4 segments of postsecondary education in this state. Existing law establishes various student financial aid programs for students attending all segments of postsecondary education.

This bill would express legislative findings and declarations and intent relating to standards of ethical behavior for student financial aid personnel at California colleges and universities. The bill would create the Student Loan Integrity Act. The bill would require each public and private postsecondary educational institution to include a warning statement regarding private student loans in or with the notice it sends to applicants informing them of their acceptance to attend the institution, as specified. The bill would require each public and private high school to post a similar warning statement regarding private student loans in a prominent place. The bill would provide that a public or private postsecondary educational institution's failure to send or post a warning notices would be a violation of the institution's fiduciary duty.

The bill would prohibit a public or private postsecondary educational institution, or an officer, employee, or representative of that institution, from doing all of the following: soliciting or accepting any thing of value in consideration of originating a student loan or advising or encouraging any person to accept a student loan, authorizing or allowing a lender or an officer, employee, or representative of any lender to identify himself or herself as a representative of the postsecondary educational institution, and knowingly making any substantially false or misleading statement to any person concerning any student loan that the person later accepts. The bill would permit a person aggrieved by a violation of these provisions to recover specified damages and costs from an educational institution or a lender, or its officer, employee, or representative, that conspired or acted in concert with the postsecondary educational institution in violating those provisions.

The bill would make it a misdemeanor for an officer, employee, or representative of a lender to knowingly make a substantially false or misleading statement to any person concerning a student loan that the person later accepts. By creating a new crime, this bill would impose a state-mandated local program. The bill would void any student loan contract that a borrower entered into because of a statement made in violation of its provisions and would prohibit a borrower or guarantor from being required to repay any portion of the loan. The bill would apply to the University of California only to the extent that the Regents of the University of California act, by resolution, to make it applicable.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Middle-class families increasingly rely on borrowing to
- 4 finance their children's higher education. Student loans have
- 5 become a fact of life for working parents and students. In 2006,
- 6 47 percent of graduates from California public four-year institutions

1 of higher education were in debt, and the average debt was \$17,200.
2 For private school graduates, the average debt ~~load~~ was \$28,138.

3 (b) As predatory lending in the home mortgage industry and
4 the resulting spiraling debt and foreclosures have curtailed the
5 hopes of many California families, abusive practices in the student
6 loan industry similarly trap some students into debt that they cannot
7 escape, even in bankruptcy.

8 (c) Three-fourths of student loans are federally subsidized or
9 guaranteed. These student loans are generally the best *choice*
10 available.

11 (d) However, one-fourth of student loans, valued nationally at
12 more than \$21 billion a year, are private consumer loans, an
13 increase from just 6 percent in 10 years. Private student loans are
14 more than twice as profitable as federally subsidized or guaranteed
15 loans, lack consumer protections, and have higher and variable
16 interest rates.

17 (e) Recent investigations by the California Research Bureau,
18 the United States Congress, and the Attorney General of New York
19 have found troubling, deceptive, and even illegal practices
20 involving student loan lenders, educational institutions, and school
21 financial aid officials. These include a lack of clear consumer
22 disclosure requirements and information on high and variable
23 interest rates that can compound daily, ~~the~~ packaging and reselling
24 of loans to purchasers that may not honor original agreements, and
25 lender kickbacks to schools or their employees to steer business
26 to the lenders.

27 (f) California public institutions of higher education generally
28 have not been implicated in the national student loan scandal, and
29 they have acted to further strengthen protections against lender
30 abuse. However, some institutions of higher education have not
31 followed these responsible institutions' example. In addition,
32 students of both public and private schools too often are victimized
33 by abusive lending practices by private lenders.

34 (g) The federal government has failed to provide adequate
35 protections for students and their families in the private loan
36 market, and in some circumstances, preempts ~~the~~ states' authority
37 to ~~provided~~ *provide* needed protections. Until government at either
38 level is able to correct the problem, students and their families
39 ~~would be well advised to get independent counseling~~ *should*

1 *research all options* before borrowing from private lenders—~~or~~
2 ~~avoid, or consider avoiding~~ private student loans entirely.

3 (h) It is the intent of the Legislature to do both of the following:

4 (1) Require all student loan lenders and institutions of higher
5 education to follow basic honest and transparent practices to protect
6 students and their families, as California's public institutions of
7 higher education do.

8 (2) Ensure that all students and their families are informed about
9 the benefits of federally subsidized or guaranteed student loans
10 and the need to avoid private loans without well-informed, neutral
11 counseling first.

12 SEC. 2. Article 17 (commencing with Section 69900) is added
13 to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education
14 Code, to read:

15
16 Article 17. The Student Loan Integrity Act
17

18 69900. This article shall be known and may be cited as the
19 Student Loan Integrity Act.

20 69901. (a) Each public and private postsecondary educational
21 institution shall include the following statement in a print at least
22 two points larger than any other print on the same page, and in any
23 case no smaller than 14-point print, in or with the notice that it
24 sends to applicants informing them of their acceptance to attend
25 the institution:

26 ~~“WARNING~~

27 ~~“DO NOT accept student loans from private financial~~
28 ~~institutions or other private lenders without carefully~~
29 ~~considering the major risks of these private loans. Federally~~
30 ~~subsidized or guaranteed student loans are available and~~
31 ~~generally much more favorable to students than private loans.”~~

32 ~~(b) Each public and private postsecondary educational institution~~
33 ~~shall post the statement required by subdivision (a), in at least~~
34 ~~18-point print, in a prominent place in its student financial aid~~
35 ~~office.~~

36 ~~69902. Each public and private high school shall post the~~
37 ~~following statement in at least 18-point type, in a prominent place:~~

38 ~~“WARNING TO STUDENTS~~

39 ~~“If you continue your education beyond high school, DO NOT~~
40 ~~accept student loans from private financial institutions or other~~

1 ~~private lenders without carefully considering the major risks~~
2 ~~of these private loans. The financial aid office of the~~
3 ~~educational institution you will attend may be able to counsel~~
4 ~~you. Federally subsidized or guaranteed student loans are~~
5 ~~available and generally much more favorable to students than~~
6 ~~private loans.”~~

7 69903. (a) A public or private postsecondary educational
8 the institution:

9 **WARNING**

10 *DO NOT accept student loans from private financial*
11 *institutions or other private lenders without carefully*
12 *considering the major risks of these private loans. Federally*
13 *subsidized or guaranteed student loans are available and*
14 *generally much more favorable to students than private loans.*

15
16
17 (b) *Each public and private postsecondary educational*
18 *institution shall post the statement required by subdivision (a), in*
19 *at least 18-point print, in a prominent place in its student financial*
20 *aid office.*

21 69902. *Each public and private high school shall post the*
22 *following statement in at least 18-point type, in a prominent place:*

23
24
25 **WARNING TO STUDENTS**

26 *If you continue your education beyond high school, DO NOT*
27 *accept student loans from private financial institutions or*
28 *other private lenders without carefully considering the major*
29 *risks of these private loans. The financial aid office of the*
30 *educational institution you will attend may be able to counsel*
31 *you. Federally subsidized or guaranteed student loans are*
32 *available and generally much more favorable to students than*
33 *private loans.*

34
35
36 69903. (a) *A public or private postsecondary educational*
37 *institution has a fiduciary duty concerning student financial aid to*
38 *persons it has admitted as students. Failure to send or post the*
39 *warning notices required by Section 69901 is a violation of the*
40 *institution’s fiduciary duty.*

(b) A public or private postsecondary educational institution, including an officer, employee, or representative of the institution shall not do any of the following:

(1) Solicit or accept any thing of value in consideration of originating a student loan or advising or encouraging any person to accept a student loan, including by placing any lender on a preferred lender list or at the top of any lender list.

(2) Authorize or allow a lender or an officer, employee, or representative of any lender to identify himself or herself as a representative of the postsecondary educational institution.

(3) Knowingly make any substantially false or misleading statement to any person concerning any student loan that the person later accepts.

(c) A person aggrieved by a violation of this section may recover actual and punitive damages, attorney's fees, and court costs from either of the following:

(1) The postsecondary educational institution that violated this section.

(2) A lender that conspired or acted in concert with the postsecondary education institution, or whose officer, employee, or representative conspired or acted in concert with the postsecondary educational institution, to violate this section.

69904. (a) It is a misdemeanor for an officer, employee, or representative of a lender to knowingly make a substantially false or misleading statement to any person concerning a student loan that the person later accepts.

(b) Any student loan contract that a borrower entered into in whole or in part because of a statement made in violation of subdivision (a) is void and no borrower or guarantor shall be required to repay any portion of the loan.

69905. This article shall apply to the University of California only to the extent that the Regents of the University of California act, by resolution, to make it applicable.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O